

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

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Investigation by the Department of Telecommunications and Energy on its own Motion pursuant to G.L. c. 159, §§ 12 and 16, into the collocation security policies of Verizon New England Inc. d/b/a Verizon Massachusetts

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D.T.E. 02-8

**REPLY BRIEF OF SPRINT COMMUNICATIONS COMPANY L.P.**

Sprint Communications Company L.P. (“Sprint”) respectfully submits this Reply Brief pursuant to the Hearing Officer Memorandum Re: Procedural Schedule; Ground Rules; and Service List dated February 27, 2002 in this proceeding.

**I. INTRODUCTION AND SUMMARY**

Sprint anticipated and addressed in its Initial Brief many of Verizon’s arguments in support of its collocation security proposals. Sprint will briefly address those issues that merit further comment in response to Verizon’s Initial Brief.

Not surprising, virtually all parties to this proceeding (except Verizon) oppose Verizon’s security proposals. Like Sprint, they recognize the anticompetitive impact of Verizon’s proposals on their business operations and competition.

Nothing in Verizon’s Initial Brief cures the numerous defects of Verizon’s collocation security proposals. Verizon’s data is as unreliable now as it was before and after the hearing. There is still no justification for Verizon’s security proposals, or cost analysis to determine their impact on competitive local exchange companies (“CLECs”). Verizon has not cured the inconsistencies between its security proposals and the Act, the FCC’s and the Department’s rules and orders, Verizon’s own tariffs, and the

Sprint/Verizon interconnection contract.

Verizon's Initial Brief underscores the fundamental problem with its collocation security proposals—they attempt to *prevent* unknown and identified security threats with unreasonable measures rather than address *existing* identifiable threats with cures that match the need. The Department should reject Verizon's proposed security measures.

## **II. VERIZON'S SECURITY PROPOSALS WILL NOT PREVENT TERRORIST ATTACKS OR NETWORK DAMAGE**

The Department should not be duped by Verizon's unsubstantiated arguments and scare tactics that its current security procedures will not "*prevent* damage to the critical telecommunications infrastructure," suggesting that its collocation security proposals *will* prevent such damage.<sup>1</sup> As Sprint and other parties noted in their initial briefs, better enforcement of Verizon's existing security procedures would have avoided most, if not all, of the security incidents reported in Verizon's response to AG-VZ-1.<sup>2</sup>

Moreover, Verizon provided not a shred of evidence that shows any demonstrated need for Verizon's security proposals, or that they will prevent harm to Verizon's and other carriers' networks. There is simply no basis for Verizon's statement that by approving its collocation security proposal, the Department would enable Verizon to prevent crimes and *future* network harm.<sup>3</sup> Verizon hasn't identified the crimes and future network harm to which it is referring, or how its security proposals will prevent these

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<sup>1</sup> Verizon Initial Brief at 1.

<sup>2</sup> See Sprint's Initial Brief at 11-12.

<sup>3</sup> Verizon Initial Brief at 23.

unidentified events.

### **III. VERIZON FAILED TO CURE ITS PROPOSALS' DEFECTS**

Nothing in Verizon's Initial Brief cures the myriad of defects that infect its security proposals. Rather, much of Verizon's Initial Brief is devoted to explaining its proposals in greater detail<sup>4</sup> or trying to justify them with broad, novel interpretations of applicable law. Verizon doesn't adequately explain why or how its proposals satisfy the FCC's collocation rules and conditions<sup>5</sup> for restricting physical collocation because they clearly violate them. Verizon's "conditions"<sup>6</sup> for virtual collocation as the exclusive form of collocation do not appear in the Act, the FCC's rules, or in any other legally binding document. Instead of demonstrating that its security proposals comply with existing law, Verizon essentially ignores existing law and instead creates its own conditions as to when or where only virtual collocation is acceptable. For example, Verizon cites in a footnote the FCC's three requirements for restricting physical collocation space to space that is physically separated from space housing Verizon's equipment,<sup>7</sup> but Verizon hasn't demonstrated compliance with them.

Similarly, Verizon's claim that the Department has the authority to determine whether physical collocation in a given central office ("CO") is technically feasible based

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<sup>4</sup> See Verizon's Initial Brief at 6-9.

<sup>5</sup> 47 C.F.R. § 51.323.

<sup>6</sup> Verizon Initial Brief at 2, 9-10.

<sup>7</sup> See Verizon Initial Brief at 12, note 15. The FCC's conditions are also quoted at page 24 of Sprint's Initial Brief.

on legitimate security concerns<sup>8</sup> ignores the FCC’s definition of technical feasibility quoted at pages 17-18 of Sprint’s Initial Brief. Again, Verizon’s unidentified and speculative security concerns do not involve technical or operational considerations, so a waiver of the FCC’s collocation rules would be necessary contrary to Verizon’s claims. Verizon also hasn’t identified “clear and convincing evidence, that specific and significant adverse impacts would result from the requested interconnection or access.”<sup>9</sup> Similarly, the fact that the “FCC is currently reviewing the appropriate security measures for RT arrangements in connection with its *Collocation Remand Order*”<sup>10</sup> hardly justifies Verizon’s proposal to mandate virtual collocation and/or escorts at physically collocated RT sites contrary to the physical collocation requirements of the Act<sup>11</sup> and 47 C.F.R. § 51.323(i). Instead, Verizon merely states that “current FCC rules do not prohibit this approach”<sup>12</sup> without providing any basis for this statement. The FCC has many pending dockets that could take years to conclude, but the *existing* law controls.

Instead of addressing these defects head on, Verizon instead takes the approach that its security proposals are “essentially a continuation of the Company’s present collocation security policies, except for the ‘critical office component.’”<sup>13</sup> Practicing

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<sup>8</sup> Verizon Initial Brief at 13.

<sup>9</sup> *Id.*, quoting ¶203 of the FCC’s Local Competition Order, *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, FCC 96-325, First Report and Order (*rel.* August 1996).

<sup>10</sup> *Id.*

<sup>11</sup> 47 U.S.C. §251(c)(6).

<sup>12</sup> Verizon Initial Brief at 13.

<sup>13</sup> Verizon Initial Brief at 15.

unlawful conduct does not make it legal. If Verizon's security proposals are merely a continuation of existing policies, then why is Verizon asking the Department to approve existing security policies? Why didn't Verizon only request approval of the "critical office" component? Clearly Verizon is asking the Department to legitimize Verizon's unreasonable and unlawful security proposals which, with or without Department approval, are no more than unlawful Verizon business practices. The Department should strike down Verizon's proposals, whether in effect or not.

Verizon devotes several pages of its Initial Brief to the importance and characteristics of remote terminals that Verizon apparently believes justify its escort requirement,<sup>14</sup> yet it ignores the FCC's rule prohibiting security escorts of any kind<sup>15</sup> and Verizon's statutory obligation to provide physical collocation "at the premise of the local exchange carrier."<sup>16</sup> Again, there is no exception in the FCC's regulations for RT collocation, and the Department already ruled on this issue when it struck Verizon's security escort requirement for RT collocation as inconsistent with the FCC's collocation rules.<sup>17</sup>

#### **IV. VERIZON'S DATA IS STILL INACCURATE AND UNRELIABLE**

The incident reports that Verizon produced in response to AG-VZ 1-1 are still inaccurate and unreliable. Verizon admitted in its Initial Brief that Exhibit AG-VZ-1

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<sup>14</sup> Verizon Initial Brief at 15-20.

<sup>15</sup> 47 C.F.R. § 51.323(i). *See* Sprint's Initial Brief at 33.

<sup>16</sup> 47 U.S.C. § 251(c)(6).

<sup>17</sup> D.T.E. 98-57 (Phase I-B) Order at 19.

documents security violations “across the country” and that they “may not be all-inclusive.”<sup>18</sup> A report of nationwide security violations is not necessarily representative of the situation in Massachusetts. For example, Verizon’s focus on a security violation in Washington state<sup>19</sup> and its continued concerns about “greater” foot traffic are belied by the lack of any serious collocation security breach in Massachusetts and the fact that “Verizon MA has taken steps to reduce ‘foot traffic’ by restricting who is allowed to access COs and other company facilities.”<sup>20</sup> Moreover, the foot traffic about which Verizon complains is the result of federal and state collocation requirements. It would be unlawful to unreasonably restrict collocation due to greater foot traffic and the alleged risk that it presents. Instead, better enforcement of Verizon’s existing collocation security procedures is necessary.

Sprint concurs with Verizon that their report is not all-inclusive,<sup>21</sup> given that it doesn’t include incidents that don’t involve CLECs or collocators.<sup>22</sup> The security violations listed at page 21 of Verizon’s Initial Brief do not include incidents involving Verizon’s employees, and CLECs are the victims, not perpetrators, of many of the reported incidents.<sup>23</sup>

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<sup>18</sup> Verizon Initial Brief at 21-22.

<sup>19</sup> Verizon Initial Brief at 22, note 34.

<sup>20</sup> Verizon Initial Brief at 43.

<sup>21</sup> Verizon Initial Brief at 22.

<sup>22</sup> See Sprint’s Initial Brief at 4.

<sup>23</sup> *Id.*

## V. VERIZON'S LEGAL ARGUMENTS ARE FLAWED

### A. Verizon Has Not Satisfied the Separate Collocation Space Requirements

Verizon has not satisfied the FCC's conditions for restricting physical collocation to space separated from space housing the ILEC's equipment, as set forth in 47 C.F.R. § 51.323(i)(4).<sup>24</sup> Again, Verizon hasn't demonstrated legitimate security concerns because Verizon's data is unreliable.<sup>25</sup> Verizon also hasn't demonstrated that its security proposals are necessary or that they will address their intended purpose.<sup>26</sup> Verizon's restatement<sup>27</sup> of the FCC's rule requirement of 24 X 7 unescorted access to collocation facilities hardly qualifies as a legitimate security concern given the Department's statement that "ILECs must allow collocating parties to access their equipment 24 hours a day, seven days a week, without requiring a security escort of any kind."<sup>28</sup> Verizon's statement at page 25 of its Initial Brief that it *would* impose the separate space requirement on a Verizon affiliate is different than the FCC's requirement that "[a]ny physical collocation space assigned to an affiliate or subsidiary of the incumbent LEC *is* separated from space housing the incumbent LEC's equipment."<sup>29</sup> (italics added)

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<sup>24</sup> See Sprint's Initial Brief at 26.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> Verizon Initial Brief at 25.

<sup>28</sup> D.T.E. 98-57, Phase I-B Order at 19, *citing* the FCC's Advanced Services Order, *In the Matters of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98147, First Report and Order and Further Notice of Proposed Rulemaking, FCC 99-48 (rel. March 31, 1999) at ¶49. See Sprint's Initial Brief at 33.

<sup>29</sup> 47 C.F.R. §51.323(i)(4). See Sprint's Initial Brief at 27.

Verizon produced no evidence demonstrating that Verizon's and its affiliates' or subsidiary's equipment *are* in separate space.

Verizon's statement that the separated space is available in the same time frame<sup>30</sup> as non-separated space is belied by Verizon's evaluation that the space cannot be separated at the Hopkinton, Massachusetts CO where virtual collocation would be required per Verizon. Transcript ("TR") 245.

Similarly, Verizon's claim that the separated space will be available "at no added cost beyond the applicable, flat-rated space conditioning charge" is inconsistent with the FCC's rule that requires "[t]he cost of the separated space to the requesting carrier will not be materially higher than the cost of non-separated space."<sup>31</sup> Aside from the fact that Verizon has not identified the implementation costs or costs to CLECs of its collocation security proposals, there is no exception for "flat rated space conditioning charges" in the FCC's rule.

Finally, notwithstanding Verizon's claim that the separate space is comparable from a technical and engineering standpoint to unsecured space, Verizon produced no evidence to support this claim. Again, CLECs are already in separated space per Verizon except for the Hopkinton, Massachusetts CO where CLECs can't be separated.<sup>32</sup>

**B. Verizon Has Not Justified Its Proposal to Relocate/Convert Cageless Collocation to a Secured Location or to Virtual Collocation**

The Department should disregard Verizon's attempt to justify its proposal to

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<sup>30</sup> Verizon Initial Brief at 25.

<sup>31</sup> 47 C.F.R. § 51.323(i)(4).

<sup>32</sup> See Sprint Initial Brief at 25.



relocate cageless collocation to a secured location or relocate them to virtual collocation “because of the serious and ‘legitimate security concerns’ raised by such configurations in a post-September 11<sup>th</sup> environment.”<sup>33</sup> Verizon’s Chicken Little “The Sky is Falling” argument simply doesn’t hold water. Again, Verizon produced no data demonstrating a need for such a requirement in Massachusetts. Moreover, there is only one cageless arrangement provided by Verizon MA—*i.e.*, the Hopkinton CO—currently located in unsecured space intermingled with Verizon MA’s equipment in the CO.<sup>34</sup> One CO hardly justifies the imposition of the broad rule that Verizon is asking the Department to approve. Finally, Verizon ignored the FCC’s rule that requires ILECs to allow competitors to collocate without requiring the construction of a cage or similar structure.<sup>35</sup> Verizon also failed to consider the adverse impacts of virtual collocation. Sprint Ex. 1 at 7; TR 51.

### **C. Verizon’s Separate Entrances/Pathways Proposal Remains Unjustified**

As with Verizon’s other security proposals, Verizon relies heavily upon alleged “legitimate security concerns” or “operational constraints”<sup>36</sup> that Verizon has failed to identify in support of its separate entrances proposal. Verizon’s other justification—that its collocation security proposal reflects current practices—demonstrates that there is no need for the Department to act on Verizon’s proposals. Verizon, which has the burden of proof in this proceeding, failed to demonstrate that this and its other procedures would

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<sup>33</sup> Verizon Initial Brief at 31.

<sup>34</sup> *Id.*

<sup>35</sup> 47 C.F.R. § 51.323(k)(2). *See* Sprint’s Initial Brief at 30-31.

<sup>36</sup> Verizon Initial Brief at 33.

not materially increase a requesting carrier's collocation costs or materially delay a requesting carrier's occupation and use of the ILEC's premises.

Finally, this security proposal is premature. Verizon acknowledged that it "cannot predict what COs in the future—other than the Hopkinton CO—would be unable to meet the separate entrance and/or pathway requirement."<sup>37</sup> The Department should not consider Verizon's collocation security proposals any further until Verizon can demonstrate that its proposals can be implemented and where, while quantifying their impact CLECs, competition, and available collocation space.

#### **D. Partitioning Verizon's Equipment or Mandating Escorts is Unlawful**

Sprint addressed the many defects of this collocation security proposal in its Initial Brief,<sup>38</sup> and will not repeat those arguments here. Sprint will note, however, that Verizon's claim that it may require escorts at the carriers' expense<sup>39</sup> is clearly inconsistent with the FCC's collocation rules that require ILECs to allow collocating parties to access their collocated equipment 24 hours a day, seven days a week, without requiring either a security escort of any kind or delaying a competitor's employees' entry into the ILEC's premises.<sup>40</sup>

#### **E. Mandating Virtual Collocation Is Unlawful**

Sprint anticipated and responded to Verizon's arguments in support of virtual collocation requests, whether at RTs, in unspecified critical COs, or elsewhere. The

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<sup>37</sup> *Id.* at note 44.

<sup>38</sup> *See* Sprint's Initial Brief at 32-33.

<sup>39</sup> Verizon Initial Brief at 35-36.

<sup>40</sup> 47 C.F.R. § 51.323(i); AT&T Ex. 1 at 20.

Department should reject Verizon's proposal for virtual collocation at RTs "because Verizon MA currently provides no collocation at RTs in Massachusetts."<sup>41</sup> Verizon is asking the Department to address something that doesn't exist in Massachusetts.

Likewise, the Department should reject Verizon's proposal for virtual collocation at undesignated critical COs. Nothing in Verizon's Initial Brief clarifies the COs that will be designated as critical, so the Department cannot assess the impact of this proposal on CLECs, collocation and competition. Indeed, "Verizon MA does not recommend specific criteria" that the Department should consider in determining whether a CO should be deemed "critical."<sup>42</sup> Instead, Verizon would have the Department focus on vague factors such as whether accidental or intentional network damage *could* pose national security risks, whether the failure of facilities housed in the CO *has the potential* to significantly disrupt communications, and whether the presence of an access tandem, E911 control tandem, or a STP in a CO *would* impact Massachusetts citizens.<sup>43</sup> These nebulous criteria provide little certainty to the Department and CLECs as to which, if any, COs will be deemed critical and they certainly do not justify violation of the FCC's mandatory physical collocation requirements.<sup>44</sup>

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<sup>41</sup> Verizon Initial Brief at 38.

<sup>42</sup> Verizon Initial Brief at 40.

<sup>43</sup> *Id.*

<sup>44</sup> *See* Sprint's Initial Brief at 33-34.

**VI. VERIZON'S ENHANCED SECURITY METHODS, IF PROPERLY IMPLEMENTED, NEGATE ANY NEED FOR VERIZON'S PROPOSED SECURITY MEASURES**

Verizon devotes several pages of its Initial Brief to discussing the combination of various security methods that Verizon uses in providing carriers with access to their collocated space and shared facilities within Verizon's COs.<sup>45</sup> These security measures include non-Verizon employee collocation ID badges, electronic CRAS, key-controlled access systems, directional signage and floor markings, access through guarded entries and security cameras.<sup>46</sup> Again, the FCC found that installing security cameras or other monitoring systems, and requiring CLEC personnel to use badges with computerized tracking systems while on the ILECs' premises provide sufficient security for an ILEC's equipment in most instances.<sup>47</sup> Verizon has not demonstrated why these security measures are inadequate, if properly implemented and enforced. Instead, Verizon's view of the "underlying problem" is "the real security concerns raised by affording collocators round-the clock, unlimited access."<sup>48</sup> Verizon has not demonstrated that this is a valid concern or that its security proposals will address this concern. Given the lack of any demonstrated need for its security measures, Verizon's real concern appears to be with its physical collocation obligations under the Act and the FCC's rules. Verizon should direct those concerns to the FCC through the waiver process, rather than to the Department in

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<sup>45</sup> Verizon Initial Brief at 42-52.

<sup>46</sup> *Id.* at 43.

<sup>47</sup> *See* Sprint's Initial Brief at 23.

<sup>48</sup> *Id.* at 53.

this litigated proceeding.<sup>49</sup> Almost all parties to this proceeding concur that Verizon's existing security procedures are adequate if properly enforced.<sup>50</sup>

## **VII. VERIZON FAILED TO MEET ITS BURDEN OF PROOF**

Verizon failed to meet its burden of proof in this proceeding,<sup>51</sup> yet it attempts to shift the burden to other parties to offer “helpful suggestions of their own.”<sup>52</sup> It is not in CLECs' best interests to waive or suggest anticompetitive alternatives that undermine their statutory rights to physical collocation. Doing so would only give more control to their largest supplier and competitor (Verizon), and diminish CLECs' ability to differentiate their products.

The Department also should not be duped by Verizon's attempt to put CLECs' security measures on trial here.<sup>53</sup> The purpose of this proceeding is to “determine whether Verizon's security policies meet the statutory standard for “just, reasonable, safe, adequate and proper regulations and practices.” G.L.c. 159, § 16.<sup>54</sup> There is no evidence supporting Verizon's claims regarding CLECs' security measures because they were not addressed.

Verizon's comparison of its statutory collocation obligations to Verizon's access

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<sup>49</sup> Verizon has already unsuccessfully appealed the FCC's collocation rules. *See* Sprint Initial Brief at 20-21.

<sup>50</sup> *See, e.g.*, Attorney General Initial Brief at 4; Sprint Initial Brief at 11.

<sup>51</sup> *See* Qwest's Initial Brief at 5-11; Sprint's Initial Brief at 2-11.

<sup>52</sup> *Id.* at 52.

<sup>53</sup> Verizon's Initial Brief at 58.

<sup>54</sup> D.T.E. 02-8, Notice of Investigation and Public Hearing, January 24, 2002 at 1.

to competitive access provider facilities is an apples to oranges comparison with little meaning.<sup>55</sup> The Act's and the FCC's collocation mandates generally apply to ILECs, not competitive access providers.<sup>56</sup>

In addition to Verizon's failure to meet its burden of proof of demonstrating the need for its security proposals or that its proposals are just and reasonable, Verizon has not completed a risk assessment of its central offices.<sup>57</sup> Without a risk assessment, there is no baseline to assess what, if any, additional collocation security measures are necessary.

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<sup>55</sup> Verizon Initial Brief at 58.

<sup>56</sup> See 47 U.S.C. §251(c)(6); 47 C.F.R. § 51.323.

<sup>57</sup> See Attorney General Initial Brief at 5; AT&T Initial Brief at 10.

## VIII. CONCLUSION

For the foregoing reasons and those noted in Sprint's Initial Brief, the Department should reject Verizon's proposed collocation security measures. If the Department does adopt any of Verizon's security proposals, such rules should be implemented at Verizon's expense as national policy through a collaborative process, the Joint Board or the FCC's Homeland Security Policy and Network Reliability and Interoperability Councils.<sup>58</sup>

Respectfully submitted,

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<sup>58</sup> See Sprint's Initial Brief at 36; Sprint Ex. 1 at 18-19, Tab 3.